IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 33872 of 2007(G)

AGAINST THE ORDER IN EP 373/2003 IN OS.139/1989 of MUNSIFF COURT, CHITTUR
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PETITIONERS:
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1. **PYARIJAN, D/O. LATE BADHER SAHIB, KINARPALLAM, AATTAYAMPATHY VILLAGE, VELANTHAVALAM POST, CHITTUR TALUK, PALAKKAD DISTRICT.**

2. **FAJULA BEEVI, D/O. LATE BADHER SAHIB, -DO- -DO-**

3. **BEEBIJAN, D/O. LATE BADHER SAHIB, -DO- -DO-**

4. **KADER BACHA, S/O. LATE BADHER SAHIB, -DO- -DO-**

5. **AMMAJAN, D/O. LATE BADHER SAHIB, -DO- -DO-**

6. **ZEENATH, W/O. MOHAMMED SHERIFF, -DO- -DO-**

7. **SAIDU BABU (MINOR), S/O. ZEENATH, -DO- -DO-, REPRESENTED BY MOTHER & NEXT FRIEND ZEENATH - PTR. NO.6.**

8. **KALIMA (MINOR), D/O. ZEENATH, -DO- -DO-, REPRESENTED BY MOTHER & NEXT FRIEND ZEENATH - PTR.NO.6.**

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS:
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1. **GULABJAN,**
   COUSIN OF SULEKHA BEEVI, CHETTIAR KALAM,
   ATTYAMPATHY, VELANTHAVALAM POST, CHITTUR TALUK,
   PALAKKAD DISTRICT.

2. **SUNNABI, D/O. SULEKHA BEEVI,**
   -DO- -DO-

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 33872 OF 2007

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Dated this the 16th day of November, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Chittur in E.P.373/03 in O.S.139/89. It was an application filed for punishing the respondents for violation of the injunction decree. The Court below on a consideration of the materials did not find any evidence and therefore dismissed the application. A perusal of the document produced by the petitioner itself would show that there is no consistent case.

2. In the execution petition it is averred that on 5.6.03 at 10 a.m. when the petitioners were attempting to remove the trees standing in the property and attempting to cultivate the property the defendants resisted. In the chief affidavit filed it is submitted that it was the defendants who attempted to cut and remove the trees that was obstructed to. It has to be borne in mind that an enquiry regarding

violation of a decree is punishable with imprisonment and therefore it requires strict proof. When there is gross difference in the pleadings, the evidence itself will militate against the case of the decree holder. Further it is submitted that there is cut and removal of trees. The decree holder is only a lady. It is also stated that she had gone along with her brother or so for which absolutely no independent evidence was adduced in this matter. It is true that if intrinsically reliable evidence of the decree holder is available the Court can rely upon it. As stated by me earlier even the decree holder does not have any consistent case. Further even though it is stated that a petition is filed before the police no document is produced by the decree holder to establish the same. On the contra, the judgment debtors have got a contention that on the guise of the decree the plaintiff is attempting to trespass into their property and they have filed a criminal case. So the Court below on appreciation of the entire materials found that there is no satisfactory evidence to hold that the judgment debtors have

committed violation of the decree of the Court below. I do not find any perversity or illegality in the said decision of the Court below and therefore it is dismissed.

M.N. KRISHNAN, JUDGE.

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